

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 15.02.2018

Judgment Pronounced on : 28.04.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.27928 of 2016

1.K.Venugopal
2.V.K.Rajasekar
3.V.K.Gunasekar
4.V.K.Gopalakrishnan
5.V.K.Balaraman Petitioners

-Vs-

1.The Land Acquisition Officer &
Revenue Divisional Officer
Collectorate Buildings
Sathuvachari
Vellore - 632 009.
,
2.The Divisional Engineer
National Highways
Sankaranpalayam
Vellore - 632 001.
3.The Vellore District Collector
Office of the Collectorate Buildings
Sathuvachari
Vellore - 632 009. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Mandamus, calling for the entire file(s)/records pertaining to the impugned orders under Ref.No.Pa.Mu.P1/4668/2015, dated 31.10.2015 / 05.11.2015 passed by the first respondent and quash the same, consequently direct the first respondent to refer the petitioners' claim suo-moto to the appropriate Civil Court under Section 18 of the Land Acquisition Act, in respect of the lands acquired from the petitioner and comprised under Town Survey Nos.189/2; 190/2; 188/2 and 203/1 total extent of 28,981 sq.ft. of land situated in the Vellore Town, Vellore District for enhancement of the compensation for the lands acquired from our mother and for other suitable orders.

For Petitioners: Mr.M.S.Mani

For Respondent : Mr.Akhil Akbar Ali
Government Advocate [R1, R3]
Mrs.S.R.Sumathy [R2]

ORDER

1.1. This is a petition where the petitioners adopt a technique of pleading by reference, reference being to the affidavit in an earlier writ petition in W.P.No.5553 of 2003, which the petitioners' mother had originally filed, and they seek a writ for quashing an order of respondent rejecting their request for making a Reference under Sec.18 of the Land Acquisition Act and for a consequential writ of mandamus.

1.2. The petitioners mother Kamalammal was holding a parcel of land in Town Survey Nos.189/2, 190/2, 188/2 and 203/1 of Vellore Town, Vellore Village. Out of the said property, an extent 28,981 sq.ft., was acquired under the provisions of the National Highways Act. The Land Acquisition Officer, the first respondent had passed an Award dated 07.12.1982. Before the Land Acquisition Authority, petitioner's mother Kamalammal had appeared and claimed compensation of Rs.1,50,000/- per acre, against which an award determining the compensation at Rs.10,000/- per acre was made. The compensation as claimed by Kamalammal was rejected for want of any evidence to establish the same. Thereafter, Kamalammal sent a representation/reminder letter dated 22.6.1987, seeking enhancement of compensation. This was responded too by the first respondent Vide the latest communication dated 20.08.1987, requiring Kamalammal to appear for enquiry before the Land Acquisition authority. During the enquiry, she was orally informed that her matter would be referred to the Civil Court under Section 18 of the Land Acquisition Act. As no response was forthcoming, Kamalammal laid WP.No.5553 of 2003 before this Court, seeking a direction to the respondents 1 and 2, to refer the matter to Civil Court under Section 18 of the Land Acquisition Act, for fixing the market value of the petitioners' lands. Pending W.P.No.5553 of 2003, Kamalammal died and her legal representatives were brought on record. This Court, Vide its order dated 11.01.2013 in W.P.No.5553 of 2003, directed the petitioners to make a fresh representation to the respondents, and marking a copy to the District Collector for remedy and on receipt of the same, the Competent Authority was directed to dispose of the same within a period of three months from the date of receipt copy of the order.

1.4. Pursuant to it, the petitioners filed their representation dated 04.08.2015 seeking a reference under Section 18 of the Land Acquisition Act 1894. In response to their representation, the District Revenue Officer had required the petitioners to appear for an enquiry on 07.10.2015, followed it with an order dated 31.10.2015 rejecting petitioners' representation on the ground that it was made after 30 years of passing the award This is now in challenge in this case.

5. The learned counsel for the petitioners argued that the petitioners had filed their representation seeking a reference even in 1987 and that that was not responded too. He also added right to property is a Constitutional Right under Article 300-A of the Constitution of India and this cannot be lightly dealt with by the Land Acquisition Officer.

6. The learned Government Advocate opposed it and contended that even Kamalammal, the mother of the parties had filed her representation for reference only on 22.6.1987, some 4 ½ years after the passing of the award. Even if the delay intervened is ignored for a while, it still remains as an admitted fact that the authority concerned had invited Kamalammal for an enquiry vide notice dated 20.8.1987. The affidavit of the petitioner is silent as to whether Kamalammal had participated in that enquiry or not. At any rate, the present attempt is hit by inexplicable delay and latches, argued the counsel.

7. This Court finds considerable force in the submission of the learned Government Advocate. The affidavit of the petitioners does not state what Kamalammal, or they themselves were doing from 1982 or at least from 1987. The mere fact that this Court has given them an opportunity for making a representation in WP.No.5553 of 2003, does not revive and vest a right in them that which they have lost statutorily. This case is terribly hit by delay and latches too which are plainly insurmountable.

8. In conclusion, this Court does not find any merit in the writ petition and hence dismissed. No costs.

ds

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To:

1.The Land Acquisition Officer &
Revenue Divisional Officer
Collectorate Buildings
Sathuvachari
Vellore - 632 009.

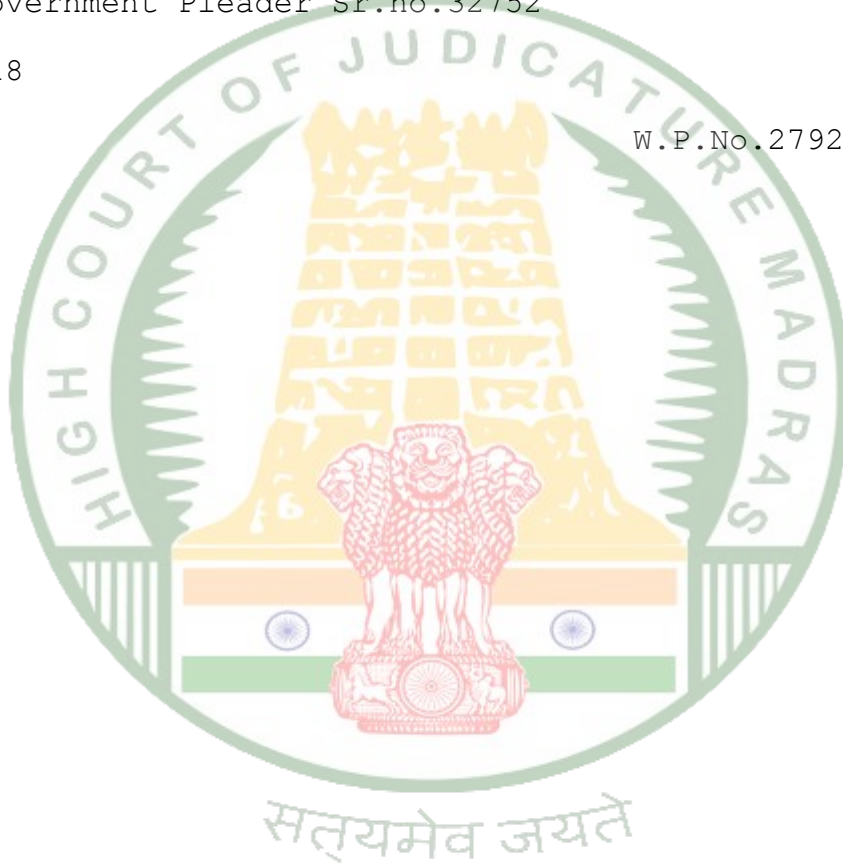
2.The Divisional Engineer
National Highways
Sankaranpalayam
Vellore - 632 001.

3.The Vellore District Collector
Office of the Collectorate Buildings
Sathuvachari
Vellore - 632 009.

+1cc to Government Pleader Sr.no.32752

sm:5.6.2018

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